ESTTA Tracking number:

ESTTA281131 04/30/2009

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91183722		
Party	Defendant Eighty-Eight, LLC		
Correspondence Address	NICHELLE NICHOLES LEVY ROBINSON BRADSHAW & HINSON 101 NORTH TRYON STREET, Ste 1900 CHARLOTTE, NC 28246 UNITED STATES rcameron@rbh.com		
Submission	Motion to Amend Application		
Filer's Name	Robert H. Cameron		
Filer's e-mail	rcameron@rbh.com		
Signature	/robert h cameron/		
Date	04/30/2009		
Attachments	88 Stylized Motion to Amend.pdf (3 pages)(94902 bytes)		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of: Date of filing: Mark:	Serial No. 78/830,7 March 7, 2006 88 & Design	750	
88 Tees Hawaii, In	c.		
Opposer,)	
v.)	Opposition No. 91183722
Eighty-Eight, LLC)	
Applicant.)	
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Commissioner for Trademarks P.O. Box 1453 Alexandria, VA 22313-1451

APPLICANT'S MOTION ON CONSENT TO REQUEST AMENDMENT OF APPLICATION

Pursuant to Trademark Rule 2.133 (37 C.F.R. § 2.133), Eighty-Eight, LLC ("Eighty-Eight"), by and through its undersigned counsel, hereby respectfully requests that Application Serial No. 78/830,750 ("the Application") be amended. Eighty-Eight requests that the original identification of goods in International Class 25 be deleted in its entirety and the following identification of goods be substituted therefor:

--Clothing marketed as goods associated with, and bearing another physically associated and clearly discernable designation of, a stock car racing team, namely, sweatshirts, sweat pants, sweat suits, warm-up suits, shirts, sport shirts, golf shirts, T-shirts, tank tops, sweaters, dresses, skirts, jerseys, long pants, sport shorts, shorts, bathing suits, pants, jackets, coats, hats, caps, bandanas, visors, belts, suspenders, head bands, wrist bands, socks, hosiery, footwear, gloves, scarves, neckties, raincoats, ponchos, pajamas, night shirts, night gowns and robes; masquerade costumes, namely, replica driver suits, replica driver helmets and baseball uniforms; infant wear; and cloth baby bibs not of paper--

Eighty-Eight has requested and has received a consent to this motion from Opposer's counsel, Colin O. Miwa, Esq., in correspondence dated April 29, 2009. Eighty-Eight requests this amendment to the identification of goods in the Application pursuant to a Coexistence Agreement entered into by Eighty-Eight and Opposer dated April 17, 2009 in which the parties agreed that by limiting the scope of the Application (and usage of the mark), that their dispute could be resolved amicably.

Accordingly, the parties request that the Board approve this amendment and remand the Application to the Examining Attorney.

A copy of this motion on consent is being sent to Opposer's counsel.

Respectfully submitted,

ROBINSON, BRADSHAW & HINSON, P.A.

Robert H. Cameron, Esq.

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Attorney for Eighty-Eight, LLC

Email: rcameron@rbh.com

Dated: $\frac{30}{2009}$, 2009

CERTIFICATE OF SERVICE

> Colin O. Miwa, Esq. Cades Schutte LLP 1000 Bishop Street 12th Floor Honolulu, Hawaii 96813

Robert H. Cameron